

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1087V

Filed: November 15, 2016

UNPUBLISHED

TERESA SHUART,

v. Petitioner,

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

* Ruling on Entitlement; Concession;
* Influenza (“Flu”) Vaccine; Shoulder
* Injury Related to Vaccine Administration
* (“SIRVA”); Special Processing Unit
* (“SPU”)
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*Diana Stadelnikas Sedar, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.
Amy Paula Kokot, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On August 31, 2016, Teresa Shuart (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,² (the “Vaccine Act”). Petitioner alleges that her receipt of an influenza (“flu”) vaccine on September 24, 2015, caused her to suffer a right shoulder injury. Petition at ¶¶ 1, 2, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 14, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent concludes that “petitioner’s alleged injury is consistent with SIRVA [shoulder injury related to vaccine administration] and that it was caused-in-fact by the flu vaccine she received on September 24, 2015.” *Id.* at 3. Respondent further agrees that no other causes for petitioner’s shoulder injury were

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

identified and that “petitioner’s SIRVA and its sequela persisted for more than six months after the administration of the vaccine.” *Id.*

In view of respondent’s concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey

Chief Special Master